

**EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET**

**PROJECT TITLE:**

Revision to Everett Municipal  
Code 10.78.070 Relating to  
Aiming or Discharging  
Firearms

<u>  X  </u>	Briefing
<u>      </u>	Proposed Action
<u>      </u>	Consent
<u>      </u>	Action
<u>  X  </u>	First Reading
<u>      </u>	Second Reading
<u>      </u>	Third Reading
<u>      </u>	Public Hearing
<u>      </u>	Budget Advisory

COUNCIL BILL #  
Originating Department  
Contact Person  
Phone Number  
FOR AGENDA OF

CB1806-22  
Police  
Dan Templeman  
425-257-8460  
June 20, 2018

Initialed by:  
Department Head  
Administration  
Council President

PR

<u><b>Location</b></u>	<u><b>Preceding Action</b></u>	<u><b>Attachments</b></u> Proposed Ordinance	<u><b>Department(s) Approval</b></u> Police, Administration, Legal
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

**DETAILED SUMMARY STATEMENT:**

Everett Municipal Code 10.78.070 prohibits the aiming of a firearm or the discharge of a firearm in a public place or any place where any person might be endangered. This revision to EMC 10.78.070 maintains the prohibition against aiming any gun, pistol, revolver or other firearm, whether loaded or not, at or towards any human being; and additionally clarifies that any discharge of a firearm, air gun, or other weapon in the city limits of Everett is prohibited. It also makes the aiming of a firearm at any human being a gross misdemeanor, which is consistent with current state law.

**RECOMMENDATION** (Exact action requested of Council):

Adopt revision to Everett Municipal Code 10.78.070 relating to Aiming or Discharging Firearms



ORDINANCE No. \_\_\_\_\_

**AN ORDINANCE amending the City's regulations concerning the Aiming or Discharging of Firearms, amending Section 131 of Ordinance No. 1145-85 (EMC 10.78.070).**

**Whereas**, the City of Everett has the power to provide for the punishment of all practices dangerous to public health or safety and to provide for the punishment of all persons charged with violating any city ordinances; and

**Whereas**, there were 81 shootings/shots fired reported to police in the City of Everett in 2017; and

**Whereas**, Section 131 of Ordinance No. 1145-85 (EMC 10.78.070) has not been updated since 1985 and there have been updates to State law since that time; and

**Whereas**, the population density of the City of Everett has changed substantially since 1985 into a dense urban residential area, such that the discharging of a firearm anywhere in the city presents a reasonable likelihood that humans, domestic animals, or property will be jeopardized, aside from the exceptions provided in Section 1 herein or in defense of self or others as guaranteed by Article 1, Section 24 of the Washington State Constitution; and

**Whereas**, the Everett City Council deems it appropriate for Section 131 of Ordinance No. 1145-85 (EMC 10.78.070) to be amended;

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** Section 131 of Ordinance No. 1145-85 (EMC 10.78.070), which reads as follows:

**Aiming or Discharging Firearms.**

Every person who shall aim any gun, pistol, revolver or other firearm, whether loaded or not, at or towards any human being, or who shall wilfully discharge any firearm, air gun or other weapon, or throw any deadly missile in a public place, or in any place where any person might be endangered thereby, although no injury result, shall be guilty of a misdemeanor.

**Be and the same is hereby amended to read as follows:**

**Aiming or discharging firearms.**

- A. Any person who knowingly aims any firearm, whether loaded or not, at or toward any human being, is guilty of a gross misdemeanor.
1. The provisions of this section do not apply to:
    - a. A person charged for this conduct pursuant to Chapter 9A.32 or 9A.36 RCW.
    - b. A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;
    - c. Law enforcement personnel; or
    - d. Security personnel while engaged in official duties.
- B. Any person who knowingly discharges a firearm, air gun or other weapon within the city is guilty of a misdemeanor.
1. The provisions of this section do not apply to:
    - a. A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;
    - b. Law enforcement personnel; or
    - c. Security personnel while engaged in official duties.
    - d. A person utilizing a properly licensed institutional, membership and/or commercial shooting range.
- C. "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes. "Gun" has the same meaning as firearm.

## **Section 2.** Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

## **Section 3.** General Duty

It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

**Section 4.** Savings

The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 5.** Corrections

The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers and any references thereto.

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**Cassie Franklin, Mayor**

**ATTEST:**

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**City Clerk**

**Passed:**

**Valid:**

**Published:**

**Effective Date:**